the other hand, the beneficial interest was charged on the income of the trust estate, and this required that the title to the corpus of the estate remain in the trustee, and that the trust continue. *Hascall* v. *King* (190-) 162 N. Y. 134. Such a distinction seems necessary for, otherwise, under certain circumstances the wording of sub-section 2 or sub-section 3 would seem equally applicable, as for example where an annuity is payable out of rents from a lease of real property. This being so, the addition of the word "annuitants" to sub-section 2 would not seem to change the law as it existed prior to 1896, and, therefore, the court in the principal case was right in saying that the beneficial interest in the annuity was inalienable, since it was payable out of rents and profits. The justification for the change in the wording of the statute seems to lie in the fact that the language of *Cochrane* v. *Schell*, supra, was broader than was necessary for the actual decision of that case. There the annuity was clearly payable out of the rents and profits, but the language would seem to make sub-section 3 applicable to all cases of annuities, whether payable out of the rents and profits or out of the corpus of the estate, and the addition of the word "annuitants" to sub-section 2 would guard against any such error in interpretaton.

ALIENATION OF RIPARIAN RIGHTS.—In several well-known instances American courts have departed from the law of waters as interpreted by the courts of England, and have taken positions which they deem more in accord with conditions in this country; but the Supreme Court of Vermont has recently repudiated another well-settled English ruling without, however, invoking principles of public policy. A riparian proprietor had granted to a land-owner away from the stream the right to lay pipes and take water from the stream for domestic purposes. An upper riparian owner polluted the stream to such an extent that the lower proprietors would have had a cause of action against him, and the court held that the non-riparian grantee had an equal right. *Lowrie* v. *Silsby* (1904) 56 Atl. 1106. In *Stockport Waterworks Co.* v. *Potter* (1864) 3 H. & C. 300, under a set of facts identical, except that the water was for the use of a town, the English court held that no such right existed in the grantee, the position of the court being that the rights of the riparian proprietor inhered in his riparian land, and while as against him a grant of those rights would be binding, he could confer no rights against third parties. This case was subsequently approved in *Ormerod* v. *Todmorden Mill Co.* (1883) 11 Q. B. D 155, in *Kensit* v. *Ry. Co.* (1884) 27 Ch. Div. 122, and distinguished in *Nuttall* v. *Bracewell* (1866) 4 H. & C. 714. In this country it has been followed in *Gould* v. *Eaton* (1897) 117 Cal. 539, and repudiated in *St. Anthony Falls Water Co.* v. *Minneapolis* (1889) 41 Minn. 270.

Riparian rights are natural rights inhering in the land, and the correlative duties are owed to the riparian proprietor and to no one else. If a non-riparian owner claims such a right he must show that he has obtained it by a grant. Rights against a person cannot be created by a contract to which he is not a party, so when the right is

claimed by virtue of an easement, those rights must be shown to inhere in the easement. The rights claimed however are rights inherent in land. They cannot exist apart from land, and cannot be assigned unless the land is conveyed. An easement is a right only of limited user, and does not include ownership of the land; so if it has any natural rights at all, they are not the natural rights of land, but of the easement itself, and it seems scarcely possible that an incorporeal hereditament could have the same natural rights as the land itself. By the contract or grant rights will arise against the grantor, and these obligations will be enforced by the courts, *Stockport Waterworks Co.* v. *Potter*, supra; *Elliot* v. *Fitchburg R. Co.* (Mass. 1852) 10 Cush. 191; but when under the grant the rights of third persons are interfered with the grant will be no defence, *Garwood* v. *New York C. R.* (1881) 83 N. Y. 400; nor, it would seem, could the grant impose duties on third persons.

The extent of the right of a riparian proprietor has not been clearly defined. A reasonable use on his own land is generally allowed, but in some cases this use is confined to riparian land, *Bathgate* v. *Irvine* (1899) 126 Cal. 135. Under such a ruling he could of course not make the grant supported in the principal case, and even where the reasonableness is determined as a matter of fact the case seems to go beyond the balance of authority.

CONTRIBUTION IN SURETYSHIP.—Contribution among cosureties is a doctrine which the courts have generally been more willing to extend than to restrict, but in the case of *Tompkins* v. *Morton Trust Co.* (1904) 86 N. Y. Supp. 520, the Appellate Division of the New York Supreme Court has imposed a new limitation. In that case the plaintiff had pledged stock to a broker with authority to the broker to repledge to the amount of his lien. One Hastings had deposited stock with the broker, but merely for safekeeping and with no authority to use it. The broker pledged both the lots of stock to the defendant as security for money borrowed, and the court found that the circumstances were such that the defendant was a bona fide holder of all the stock and was entitled to use either portion or the whole to satisfy its lien. The plaintiff's stock was sold to satisfy the lien, and he claimed contribution from Hastings, but the court held there could be no recovery.

Cosuretyship exists wherever two or more persons are equally liable for another's obligation, *Deering* v. *Winchelsea* (1787) 2 B. & P. 270, and Coke points out that contribution has been imposed by the law not only in cases of cosuretyship, but wherever this equal liability existed and all did not share in discharging the obligation. *Harbart's Case* (1576) 3 Coke 11. The right does not arise by contract, nor does it depend on subrogation, *Sibley* v. *McAllaster* (1836) 8 N. H. 389; 1 Story's Eq. Jur. 506, note, but it is a duty imposed by law purely on equitable grounds, and these are equities between the sureties. No surety can relieve himself from the liability by a release from the creditor, Ex parte *Gifford* (1802) 6 Ves. 805, nor can the debtor confer advantages on one surety which will not be available to